

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

G2 SECURE STAFF, LLC
Employer

and

Case 29-UD-232699

VERONICA SALAZAR,
Petitioner

and

SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 32BJ
Union

DECISION AND ORDER

On December 11, 2018, the Petitioner filed the instant petition seeking to rescind the authority to maintain a union-security clause in the collective-bargaining agreement between the Employer and the Union, which covers all employees employed by the Employer at Terminal D, LaGuardia Airport. The Employer argued that the petition should be dismissed, reasoning that it is a “derivative carrier” subject to the jurisdiction of the Railway Labor Act (RLA), and therefore the Board lacks jurisdiction under Section 2(2) of the Act. Following a hearing, the Regional Director transferred the matter to the Board and requested that the Board refer the matter to the National Mediation Board (NMB) for an advisory opinion concerning the NMB’s jurisdiction. On June 12, 2019, the Board submitted this case to the NMB for a determination on whether the Employer’s LaGuardia operations are subject to the RLA. Thereafter, the NMB issued an opinion stating that, in its view, the Employer is a carrier subject to the RLA. *G2 Secure Staff, LLC*, 46 NMB 83 (2019).

Having received the NMB’s advisory opinion, we will give it the substantial deference the Board ordinarily accords such opinions. See *DHL Worldwide Express*, 340 NLRB 1034, 1034 (2003). Considering the record in light of the NMB’s opinion, we find that the Employer’s employees employed at Terminal D perform work that has traditionally been performed by air carrier employees, and that a carrier (Delta Airlines) exercises substantial control over the Employer’s Terminal D operations under the NMB’s traditional six-factor carrier control test. Under that test, we find that the record supports the NMB’s finding that four factors — the extent of Delta’s control over the manner in which the Employer conducts its business, Delta’s access to the Employer’s operations and records, Delta’s role in personnel decisions, and the extent of Delta’s control over employee training — demonstrate that the Employer is subject to Delta’s

control and thus weigh in favor of RLA jurisdiction.¹ Therefore, we agree with the NMB's determination that Delta exercises sufficient control over the Employer's operations at Terminal D to establish RLA jurisdiction. See *Prime Flight Aviation Services, Inc.*, 367 NLRB No. 81, slip op. 2–3 & fn. 4 (2019) (four of six factors established RLA jurisdiction; only “the degree of carrier supervision over the Employer's employees and whether the Employer's employees are held out to the public as carrier employees” did not support RLA jurisdiction.) Accordingly, we shall dismiss the petition.

ORDER

IT IS ORDERED that the petition is dismissed.

JOHN F. RING,

CHAIRMAN

MARVIN E. KAPLAN,

MEMBER

WILLIAM J. EMANUEL,

MEMBER

Dated, Washington, D.C., February 21, 2020.

¹ We find that an additional factor — whether the Employer's employees are held out to the public as Delta's employees — is neutral because although the Employer's employees' uniforms do not contain Delta's logo and they do not interact with Delta's passengers, the Employer's and Delta's employees wear similar uniforms and the Employer's employees drive Delta's lavatory and water trucks. The remaining factor — the degree of carrier supervision over the Employer's employees — does not support RLA jurisdiction.